

IN THE MATTER OF
THE APPLICATION OF
JOSEPH E. NEET, ET UX
FOR A VARIANCES ON PROPERTY
LOCATED ON THE NORTH SIDE OF
RYERSON CIRCLE, 120' WEST OF
THE CENTERLINE OF WISEWELL
COURT (3204 RYERSON CIRCLE)
13TH ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

OPINION

This matter comes up on appeal from the decision of the Deputy Zoning Commissioner by order dated October 5, 1995 granting the variance to permit a lot line setback of 0 feet in lieu of the minimum 2.5 feet for an existing shed but denying the variance to permit a side yard setback of 6 inches in lieu of the minimum 2.5 feet for an existing swimming pool. Petitioner timely filed an appeal on the denial of the swimming pool variance and a de novo hearing was held on May 7, 1996 on that issue alone.

Petitioners Joseph and Sandra Neet appeared unrepresented by counsel and offered their testimony as well as that of one neighbor. Protestant Jeannette Caum was represented by Robert Rody, Esquire, and offered her testimony in opposition.

After reviewing the testimony and exhibits, the Board finds the following facts. The site in question is located on Ryerson Circle, and is improved with a single-family townhouse. Ms. Caum moved next door approximately three and a half years ago, and the pool was installed sometime thereafter. Petitioners concede they have not properly located the pool vis a vis Ms. Caum's property line in terms of being the requisite 2.5 feet away. Like so many of the lots in the neighborhood, the yards are relatively small with little room for items to be set thereon. Neither Petitioner offered testimony about what was unique about their lot as opposed

Joseph E. Neet, et ux Case No. 96-63-A

to other lots in the neighborhood.

The bases upon which to grant a variance are set forth in Section 307 of the Baltimore County Zoning Regulations (BCZR) and require the existence of "special circumstances" or "peculiar conditions." The Court of Special Appeals in Cromwell v. Ward, 102 Md.App. 691 (1995) construed this regulation strictly, and this Board must do the same. Before considering later variance requirements, therefore, Petitioners must first demonstrate that the property is somehow unique. Mr. Neet voluntarily offered in direct examination that the lot is not unique. It is similar in shape, size and function to many of the townhouse lots in the neighborhood.

ORDER

IT IS THEREFORE this 21st day of May, 1996 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance to permit a setback of 6 inches in lieu of 2.5 feet for the backyard pool be and is hereby DENIED.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Kristine K. Howanski, Acting Chairman
Lawrence M. Stahl

Charles L. Marks



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

May 21, 1996

Mr. & Mrs. Joseph E. Neet
3204 Ryerson Circle
Baltimore, MD 21227

RE: Case No. 96-63-A
Joseph E. Neet, et ux -Petitioners

Dear Mr. & Mrs. Neet:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Radcliffe for
Kathleen C. Bianco
Administrative Assistant

Enclosure

cc: Robert S. Rody, Esquire
Ms. Jeannette Caum
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Printed with Soy-based ink
on Recycled Paper

IN RE: PETITION FOR VARIANCE
N/S Ryerson Circle, 120' W
of the c/l of Wisewell Court
(3204 Ryerson Circle)
13th Election District
1st Councilmanic District

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 96-63-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 3204 Ryerson Circle, located in the vicinity of Hollins Ferry Road and the Baltimore Beltway (I-695) in Halethorpe. The Petition was filed by the owners of the property, Joseph E. and Sandra L. Neet. The Petitioners seek relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot line setback of 0 feet for an existing shed and 6 inches for an existing swimming pool, in lieu of the minimum required 2.5 feet for each. The subject property and relief sought are more particularly described on the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition was Joseph E. Neet, property owner. Appearing in opposition to the relief requested was Jeannette Caum, adjoining property owner.

Testimony and evidence offered revealed that the subject property consists of 2,052 sq.ft., zoned D.R. 10.5 and is improved with a two-story single family, inside group townhouse dwelling. Also on the property is a swimming pool, 12' in diameter, and a shed, approximately 8'1" x 5'2", both of which are located in the rear yard on the east side of the subject property. Apparently, the instant Petition was filed in response to a complaint registered by Ms. Jeannette Caum, the adjoining property owner,

ORDER RECEIVED FOR FILING
Date 10/5/96
By [Signature]

as to the location of the swimming pool. Mr. Neet testified that he and his wife and three children have resided on the property for the past five years. He testified that the above-ground swimming pool was installed approximately two years ago at which time he advised Ms. Caum of his plans and she voiced no objections. Mr. Neet further testified that the shed existed on the property at the time of his purchase and that to the best of his knowledge, the shed has been on the property for at least the last ten (10) years. Testimony revealed that this property is only 15.5 feet in width at the front property line and 15.6 feet in width at the rear property line. In view of the narrow width of this lot, the requested variances are necessary for the swimming pool and shed.

Ms. Jeannette Caum, the adjoining property owner, appeared and testified in opposition to the swimming pool. Ms. Caum testified that she is recently retired and is now home every day. She testified that the pool has become a nuisance to her in that water has been splashed over into her yard and has killed her grass. Furthermore, due to the additional water spilling over onto her property, her yard has become swampy. In addition, by virtue of the children playing in the pool, toys and floats have accidentally come onto her property requiring the children to come into her yard to retrieve same. Ms. Caum testified that she does not want to tolerate this inconvenience any longer and asked that the Petitioners be forced to maintain the required 2.5 foot setback from the property line adjoining her property. Ms. Caum conceded that the swimming pool did not bother her as much when she was working during the day, but now that she is retired and is home every day, she has begun to suffer from the effects of the swimming pool being located just 6 inches from her property line.

ORDER RECEIVED FOR FILING
Date 10/5/96
By [Signature]

In support of his request, Mr. Neet submitted as Petitioner's Exhibit 2 a Petition which had been signed by many residents from the surrounding community stating that they have no objections to the variance for this pool. However, it should be noted that none of the residents who signed the Petition live adjacent to the subject property, and therefore, are not directly affected by the location of this pool. It was clear from the testimony and evidence offered that only the adjoining property owner, Ms. Caum, is directly affected by the location of this pool.

It was obvious during testimony that these two neighbors do not get along, to say the least. Testimony revealed that Ms. Caum has threatened to purchase a Pit Bull to keep the children out of her yard and that she has on occasion, kept the toys that have come onto her property and not given them back to the children. In addition, Ms. Caum testified that Mrs. Neet has threatened her in the past with physical harm. It is obvious that whatever decision is reached in this case, the differences that have arisen between these neighbors will not be resolved. With that said, I will concentrate my decision only on the relief requested before me.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Solev, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After considering all of the testimony and evidence offered at the hearing, it is my opinion that the Petitioners have failed to satisfy the burden imposed upon them to allow the swimming pool to be located just 6 inches off the property line shared with Ms. Caum. Therefore, insofar as the relief requested for the swimming pool is concerned, that variance shall be denied. It would not be possible to grant that variance without the adjacent property owner suffering adverse consequences by reason of the variance. However, I do not believe that the Petitioners should be required to eliminate the swimming pool altogether. This pool was purchased two years ago, and has provided recreational activity for the Petitioners' three children since that time. It allows the children to play in their own yard, close to home in the summer months. As previously stated, it is not possible for the swimming pool to remain in the yard without a side yard variance being granted. Given the strong opposition from Ms. Caum, no variance shall be granted from her property line. However, I will entertain a modified variance of 1 foot from the western property line, provided the neighbor on that side does not object. Therefore, I will allow the Petitioners thirty (30) days from the date of this Order to submit written approval from that neighbor that they have no objections to the swimming pool being relocated to 1 foot from their property line. In the event that neighbor objects to the modified variance offered herein, then the Petitioners shall have no alternative but to disassemble and remove the swimming pool from their property.

ORDER RECEIVED FOR FILING
Date 10/5/96
By [Signature]

As to the variance relief sought for the shed, Ms. Caum was not opposed to the location of the shed, due to the fact that the Petitioner installed a make-shift gutter on the shed to prevent water from running off onto her property. Therefore, inasmuch as the location of this shed poses no adverse consequence to Ms. Caum, it shall be permitted to remain in its present location, as it has for the past 10 years.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 5th day of October, 1996 that the Petition for Variance seeking relief from Section 400.1 of the B.C.Z.R. to permit a side yard setback of 6 inches in lieu of the minimum required 2.5 feet for an existing swimming pool, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot line setback of 0 feet in lieu of the minimum required 2.5 feet for an existing shed, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petitioners shall have thirty (30) days from the date of this Order in which to obtain and submit written approval from their neighbor on the west side that they would not object to a variance of 1 foot from their property line for the relocation of the Petitioners' swimming pool. In the event that neighbor objects to the modified variance offered herein, then the Petitioners shall have no alternative but to remove the pool from the premises; and,

ORDER RECEIVED FOR FILING
Date 10/5/96
By [Signature]

IT IS FURTHER ORDERED that the Petitioners shall have thirty (30) days from the date of this Order in which to file an appeal of this decision.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:hjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

October 5, 1995

Mr. & Mrs. Joseph E. Neet
3204 Ryerson Circle
Baltimore, Maryland 21227

RE: PETITION FOR VARIANCE
N/S Ryerson Circle, 120' W of the c/l of Wisewell Court
(3204 Ryerson Circle)
13th Election District - 1st Councilmanic District
Joseph E. Neet, et ux - Petitioners
Case No. 96-63-A

Dear Mr. & Mrs. Neet:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in part and denied in part in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:hjs

cc: Ms. Jeannette Caum
3202 Ryerson Circle, Baltimore, Md. 21227

People's Counsel

File

Printed with Soybean Ink
on Recycled Paper



Petition for Variance
to the Zoning Commissioner of Baltimore County

for the property located at 3204 Ryerson Circle
which is presently zoned D.R. 10.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property located in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.1 to permit a 6' and 1' 1st line setback in lieu of 2.5' for a shed and pool, respectively.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty.)
1) Compliance with Zoning Regulation of 2.5' from property line would be unreasonable to meet due to width of yard (15' x 15').
2) Shed was existing on property when residence was purchased and we were not aware of the zoning regulations.
3) By not granting us the Variance would be an injustice to us as well as other property owners in this district who are not in compliance as well.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessor:

(Type or Print Name)

Signature

Address

City

State

Zip

Phone

Address

City

State

Zip

Phone

Address

City

State

Zip

Phone

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Zoning Description

Zoning Description for 3204 Ryerson Circle

Beginning at a point on the North side of Ryerson Circle which is 60' wide at the distance of 120' west of the centerline of the nearest improved intersecting street, Wisewell Court, which is 90' wide. Being Lot # 41, Block E, Section II in the subdivision of Ryerson Terrace as recorded in Baltimore County Plat Book # 28, Folio # 14, containing 2,552 square feet or 0.4 acres. Also known as 3204 Ryerson Circle and located in the 1st Election District, 13th Councilmanic District.

#63

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1st Date of Posting: 8/2/95
Posted for: Variance
Petitioner: Joseph E. Neet
Location of property: 3204 Ryerson Circle, N/S
Location of Sign: Property on property being posted
Remarks: None
Posted by: Timothy M. Kotroco Date of return: 8/2/95
Number of Signs: 1

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 8/2/95 ACCOUNT: R. Kotroco
AMOUNT: \$ 210.00
RECEIVED FROM: 3204 Ryerson Circle
FOR: Posting
VALIDATION OR SIGNATURE OF CASHIER: Timothy M. Kotroco
SIGNED BY: 8/2/95

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 13th Date of Posting: 11/18/95
Posted for: Appeal
Petitioner: Joseph E. Neet
Location of property: 3204 Ryerson Circle
Location of Sign: Property on property being posted
Remarks: None
Posted by: Timothy M. Kotroco Date of return: 11/24/95
Number of Signs: 1

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 11/18/95 ACCOUNT: NOO1-7120
AMOUNT: \$ 210.00
RECEIVED FROM: Joseph and Sandra J. Neet
FOR: Appeal, Property Zoning Commission
VALIDATION OR SIGNATURE OF CASHIER: Timothy M. Kotroco

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 63

Petitioner: Joseph Edward Neet

Location: 3204 Ryerson Circle, Balto. Md. 21227

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Joseph Edward Neet

ADDRESS: 3204 Ryerson Circle, Balto. Md. 21227

PHONE NUMBER: 247-5593

AJ:ggg

(Revised 04/09/93)

TO: PUTNEY PUBLISHING COMPANY
August 31, 1995 Issue - Jeffersonian

Please forward billing to:

Joseph and Sandra Neet
3204 Ryerson Circle
Baltimore MD 21227
247-5593

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-63-A (Item 63)

3204 Ryerson Circle

N/S Ryerson Circle, 120' W of c/l Wisewell Court

1st Election District - 1st Councilmanic

Legal Owner: Joseph Edward Neet and Sandra Lynn Neet

HEARING: WEDNESDAY, SEPTEMBER 20, 1995 at 2:00 p.m. in Room 118, Old Courthouse.

Variance to permit a zero foot and 6-inch lot line setback in lieu of 2.5 feet for a shed and pool, respectively.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE: 96-63-A (Item 63)

3204 Ryerson Circle

N/S Ryerson Circle, 120' W of c/l Wisewell Court

1st Election District - 1st Councilmanic

Legal Owner(s): Joseph Edward Neet and Sandra Lynn Neet

HEARING: Wednesday, September 20, 1995 at 2:00 p.m. in Room 118, Old Courthouse.

Variance to permit a zero foot and 6-inch lot line setback in lieu of 2.5 feet for a shed and pool, respectively.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are handicapped accessible; for special accommodations please call 887-3353.

(2) For information concerning the file and/or hearing, please call 887-3391.

8845 Aug. 31.

CERTIFICATE OF PUBLICATION

TOWSON, MD., 9/1, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 8/31, 1995.

THE JEFFERSONIAN,
A. Henrichs
LEGAL AD. - TOWSON



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 25, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein Room 106 of the County Office Building, 111 West Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-63-A (Item 63)
3204 Ryerson Circle
N/S Ryerson Circle, 120' W of c/l Wisewell Court
1st Election District - 1st Councilmanic
Legal Owner: Joseph Edward Neet and Sandra Lynn Neet
HEARING: WEDNESDAY, SEPTEMBER 20, 1995 at 2:00 p.m. in Room 118, Old Courthouse.

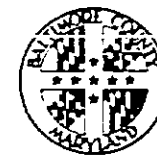
Variance to permit a zero foot and 6-inch lot line setback in lieu of 2.5 feet for a shed and pool, respectively.

Arnold Jablon

Arnold Jablon
Director

cc: Joseph and Sandra Neet

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-1355.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue
February 8, 1996

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), BOARD'S RULES OF PRACTICE & PROCEDURE, APPENDIX C, BALTIMORE COUNTY CODE.

CASE NO. 96-63-A JOSEPH E. NEET, ET UX -Petitioner
N/S Ryerson Circle, 120' W of the c/l of
Wisewell Court (3204 Ryerson Circle)
13th Election District
1st Councilmanic District

VAR -To permit lot line setback of 0' for
existing shed and side yard setback of 6" for
existing swimming pool, in lieu of min. req'd
2.5' for each.

10/05/95 -D.Z.C.'s Order in which Petitions
for Variance GRANTED in part (shed); DENIED in
part (pool).

ASSIGNED FOR: TUESDAY, MAY 7, 1996 at 10:00 a.m.

cc: Mr. & Mrs. Joseph E. Neet Appellants /Petitioners
Ms. Jeannette Caum Protestant

People's Counsel for Baltimore County
Pat Keller /Planning Director
Lawrence E. Schmidt
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Kathleen C. Bianco
Administrative Assistant



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 13, 1995

Mr. and Mrs. Joseph E. Neet
3204 Ryerson Circle
Baltimore, MD 21227

RE: Item No.: 63
Case No.: 96-63-A
Petitioner: J. E. Neet

Dear Mr. and Mrs. Neet:

The Zoning Advisory Committee (ZAC), which consists of representa-
tives from Baltimore County approval agencies, has reviewed the plans
submitted with the above referenced petition, which was accepted for
processing by Permits and Development Management (PDM), Zoning Review, on
August 11, 1995.

Any comments submitted thus far from the members of ZAC that offer or
request information on your petition are attached. These comments are not
intended to indicate the appropriateness of the zoning action requested,
but to assure that all parties (zoning commissioner, attorney, petitioner,
etc.) are made aware of plans or problems with regard to the proposed
improvements that may have a bearing on this case. Only those comments
that are informative will be forwarded to you; those that are not
informative will be placed in the permanent case file.

If you need further information or have any questions regarding these
comments, please do not hesitate to contact the commenting agency or Joyce
Watson in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

BALTIMORE COUNTY, MARYLAND
INTER OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: August 28, 1995
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Development Plans Review

RE: Zoning Advisory Committee Meeting
for August 28, 1995
Items 055, 056, 063, and 064

The Development Plans Review Division has reviewed
the subject zoning items and we have no comments.

RWB:sw

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: ZADM Joyce Watson DATE: 8/24/95
FROM: DEPRM Development Coordination
SUBJECT: Zoning Advisory Committee Agenda: 8/21/95 ZAC Comments

The Department of Environmental Protection & Resource Management has no
comments for the following Zoning Advisory Committee items:

Item #'s: 29
55
57
58
61
63

LS:sp

LETTY2/DEPRM/TXTSBP

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 08/23/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF AUGUST 21, 1995

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed
by this Bureau and the comments below are applicable and required to
be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time.
(IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 29, 55, 56, 57, 58, 60, 62,
63 & 64.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F



Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Hal Kassoff
Administrator

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 063 (JRA)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to
approval as it does not access a State roadway and is not affected by any State
Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: August 17, 1995
Zoning Administration and
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item Nos. 29, 52, 55, 63, and 64.

If there should be any further questions or if this office can provide additional
information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey M. Long*

Division Chief: *Carol L. Kern*

PK/JL

ITEM29/PZONE/ZAC1

RE: PETITION FOR VARIANCE
3204 Ryerson Circle, N/S Ryerson Cir,
120' W of c/l Wisewell Court
1st Election District, 1st Councilmanic
Joseph E. and Sandra L. Neet
Petitioners
* * * * *
* * * * *

BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
*
CASE NO. 96-63-A

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Charles L. Marks
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of September, 1995, a copy of the foregoing Entry of Appearance was mailed to Joseph E. and Sandra L. Neet, 3204 Ryerson Circle, Baltimore, MD 21227, Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN



Baltimore County
Department of Permits and
Development Management

Permits and Licenses
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3900
Fax (410) 887-2824

November 3, 1995

Ms. Jeannette Caum
3202 Ryerson Circle
Baltimore, MD 21227

Re: Petition for Variance
N/S Ryerson Circle
120' W of the c/l of
Wisewell Court
13th Election District
1st Councilmanic District
Joseph E. Neet, et ux -
Petitioners
Case No. 96-63-A

Dear Ms. Caum:

Please be advised that an appeal of the above-referenced case was filed in this office on November 2, 1995 by Mr. and Mrs. Joseph Neet. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals, "Board".

If you have any questions concerning this matter, please do not hesitate to contact the Board at 887-3180.

Sincerely,

ARNOLD JABLON
Director
Department of Permits and
Development Management

AJ:nmn

cc: People's Counsel

Printed with Soybean Ink
on Recycled Paper

APPEAL

Petition for Variance
N/S Ryerson Circle, 120' W
of the c/l of Wisewell Court
(3204 Ryerson Circle)
13th Election District - 1st Councilmanic District
Joseph E. Neet, et ux - Petitioners
Case No. 96-63-A

Petition for Variance

Description of Property

Certificate of Posting

Certificate of Publication

Zoning Plans Advisory Committee Comments

Petitioner(s) and Protestant(s) Sign-In Sheets

Petitioner's Exhibits: 1 - Plat to Accompany Petition for Zoning
Variance
2 - Petition to Accompany Petition for
Zoning Variance

26 Photographs (Not Market as Exhibits)

14 Page Letter, ZAC Comments, and One Photograph to Timothy
Kotroco, from Mr. and Mrs. Joseph Neet dated October 24, 1995

Letter to Mr. and Mrs. Joseph Neet from Timothy M. Kotroco dated
October 30, 1995.

Deputy Zoning Commissioner's Order dated October 5, 1995 (Granted
in Part and Denied in Part)

Notice of Appeal received on November 2, 1995 from Mr. and Mrs.
Joseph E. Neet, et ux - Petitioners

cc: Mr. and Mrs. Joseph E. Neet, 3204 Ryerson Circle, Baltimore,
MD 21227
Ms. Jeannette Caum, 3202 Ryerson Circle, Baltimore, MD 21227
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Timothy M. Kotroco,
Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

2/08/96 -Notice of Assignment for hearing scheduled for Tuesday,
May 7, 1996 at 10:00 a.m. sent to following:

Mr. & Mrs. Joseph E. Neet
Ms. Jeannette Caum
People's Counsel for Baltimore County
Pat Keller /Planning Director
Lawrence E. Schmidt
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

5/06/96 -CER sent Board's rules to Robert Rody, Esquire (by FAX 539-
2247), attorney for Ms. Caum /Protestant.

5/07/96 - Hearing had; deliberated at conclusion of same; D -Petition
for Variance (K.L.C.). Written Opinion/Order to be issued;
appellate period to run from date of that written Order.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Joseph E. Neet, et ux -Petitioners
Case No. 96-63-A

DATE : May 7, 1996 /at conclusion of hearing

BOARD /PANEL : Kristine K. Howanski (KKH)
Lawrence M. Stahl (LMS)
Charles L. Marks (CLM)

SECRETARY : Kathleen C. Bianco
Administrative Assistant

Those present at this deliberation included Petitioner, Joseph E. Neet; Robert S. Rody, Esquire, on behalf of Protestant, Jeannette Caum, and Ms. Caum. The Office of People's Counsel did not participate in these proceedings.

KKH: We are now here to deliberate Case 96-63-A. Joseph E. Neet, et ux, Petitioner, north side Ryerson Circle for a variance to permit a lot line setback of 0' for existing shed and 6' for the existing swimming pool in lieu of the minimum required 2.5' for each. As stated before, we are here pursuant to Zoning Commissioner's Order in which Petitions for Variance were granted as to the shed and denied as to the pool, dated October 5, 1995. I will say that the only issue for deliberation today is that of the pool insofar as the shed has already been approved. No appeal was taken from and the shed is as properly variances at this point.

LMS: I usually begin deliberations in public with railing for a few moments about how I don't like the process of doing this in public. However, there is an exception that proves every rule; this is one of them.

This is a troubling question for me, for personal as well as life reasons. It's not a difficult question, unfortunately, for one side or the other, in terms of the law. We are here not to determine whether or not the Protestant and Petitioners get along or whether they like to or not use their property in a friendly or obnoxious way; only as under existing laws and ordinances of Baltimore County and the State of Maryland, can a variance as requested be granted.

The controlling law is a case known as Cromwell v. Ward, which is a 1995 Court of Appeals decision, and it states that since a variance is, in fact, saying you can do something not generally allowed, you have two tests which you must in fact meet. You must meet the first test before going to the second. First, is that the property in question must be unique in the neighborhood; that by reason of its size, shape,

Deliberation /Joseph E. Neet, et ux /96-63-A

use, interdiction by other roads, prior zoning, or some other factor, that it is a property unlike the others in the area, such that if it is in fact unique, that you are then allowed to go to the second question; presuming that it is unique, that strict compliance would result in practical difficulty or unreasonable hardship.

Unfortunately for the Petitioners, frankly out of Petitioner's own testimony several times, there is no issue as to whether or not this is a unique property in the area. Most certain it is not unique in the area. There was uncontradicted testimony. That being the given, we do not reach the second question from legal point of view because the first test has not been met in any way, and in fact, the opposite has been affirmed out of testimony provided by the Petitioner himself. Having said that, obviously moving the pool is a requirement, and, in essence, I come to the same conclusion as they did below -- that it in fact does not deserve under the laws that we must determine, and under case law -- it does not qualify for a zoning variance.

There is a reason why I am glad there is open deliberation, because to leave it there would be a disservice. Having resolved the legal issue, and having resolved whether or not it is to be granted -- an advantage of the bench is the opportunity to provide dictum -- a discussion of issues that we think are important but that do not ultimately bear on the legal issue. Having dealt with the issue, I fear that this morning has made things ultimately worse than they might have been beforehand. Two neighbors who will continue to be neighbors -- we have two families that in fact will come out of here to some degree unhappy. Because certainly Petitioners will be unhappy -- to move or downsize their pool -- because of ruling of this Board. By the same token, they will still wind up with a pool at some different location and dimension, presumably. Whether or not they will continue to barbecue and have noise is not relevant today or to the variance -- that's a legal use of the property. The Protestant has won the day; however, presuming that the Petitioner now downsizes the pool or moves it the requisite distance, I fear that what will result will be many, if not all, of the same problems that existed continuously -- noise, spillage, children, items over the fence; the difference will be that all of those things will then be ultimately legitimate, presumably, and within the rights granted to the Petitioners.

So, ultimately, I don't know if the Protestant wins either. There was discussion of a 6' fence; harkened back to "good fences make good neighbors." I wonder aloud whether some way might be found to have a fence built high enough that may

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Deliberation /Joseph E. Neet, et ux /96-63-A

still, upon reflection, be a better result than the one the law mandates. Even if the pool were in the same position, could resolve runoff, spillage and things going over the fence. This is not a decision to be made today. What we have here today is a problem of demographics. I've seen it recently in my own life and family members. A neighborhood was built a number of years ago, in another time in society. Built close on the premise that the neighbors could continue to utilize things with gentility; different times now. Moreover, there are, and Mr. Rody put his finger on it, no bad people here; just people with different perceptions and needs. Petitioners with young children with needs generated by those demographics to provide children. The Protestant does not have small children; is retired; desires and perceives different quality of good life for her time and station in life; and is entitled to that also.

It's not that one is right and one is wrong; just different. A means should be found to reconcile those differences because the simple resolution of today's legal issue will not do that. If you both go from here and life is no better, then ultimately you both are losers, and the system has served neither of you. The system can only do what it does; it leaves it to those who live to deal with their small piece of the world.

I have pontificated more than I ever thought possible; will reiterate that the variance should be denied; that the strictures of Cromwell have not been met.

CLM: I always wish that I could speak as eloquently as my compatriot on the bench; my thoughts completely. This Board listens to testimony and evidence and determines if the law has been complied with. We do not make the law; it's made by the County Council. When the laws are enacted -- this is what they thought to be beneficial for the health, safety and general welfare of existing communities. As my fellow Board member has indicated, we are guided by specific rules and regulations; also cases by Court of Special Appeals and Court of Appeals, one of which is Cromwell v. Ward, a very recent decision. Lot in question must have unique or unusual characteristics; if not, then the Board has no alternative but to deny the variance requested.

This is a very simple one -- townhouses that basically blend in with the community. Based on the testimony and evidence, there is nothing unique. Obviously, the request must be turned down.

I do agree with Larry's comments concerning the fact that we

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Deliberation /Joseph E. Neet, et ux /96-63-A

can make those legal decisions, but basically, if we are going to exist as neighbors, we must learn to get along together, either with a townhouse or if acreage separated us. As far as the law is concerned, it is very clear -- I don't believe the Board has any other rule to follow except to deny the variance.

KKH: I'm going to have to agree as well. I do think we are constrained by Cromwell v. Ward; absolutely nothing -- Testimony of Mr. Neet and Mr. Edwards makes it clear that there is nothing unique about these homes. Because of that, they do not satisfy burden of proof on the variance.

I do, like Larry, feel compelled to speak because the testimony today did little to mend fences. We saw some relationships perhaps degenerate still further. It reminds me of differences where you tell people they are better off settling because if you try the case, people hear things they don't want to hear; may be true but no one feels better, and still must deal with each other. Here you are now; heard feelings expressed, we will make ruling; agree that law simply does not permit us to award variance, yet you will have to live together as neighbors. Heard a lot -- and my focus will be on the children; I do think many mistakes were made and if everybody can learn from that, better off.

1) The pool was put up without knowledge of zoning law. Bells should go off; and I understand you see many offending neighbors, but just because someone does it, that does not make it right. Look at the zoning laws, whether you are putting up a fence, pool, etc. The pool was put up incorrectly; not relevant what other neighbors do. In fact, with a townhouse, it makes following laws more important.

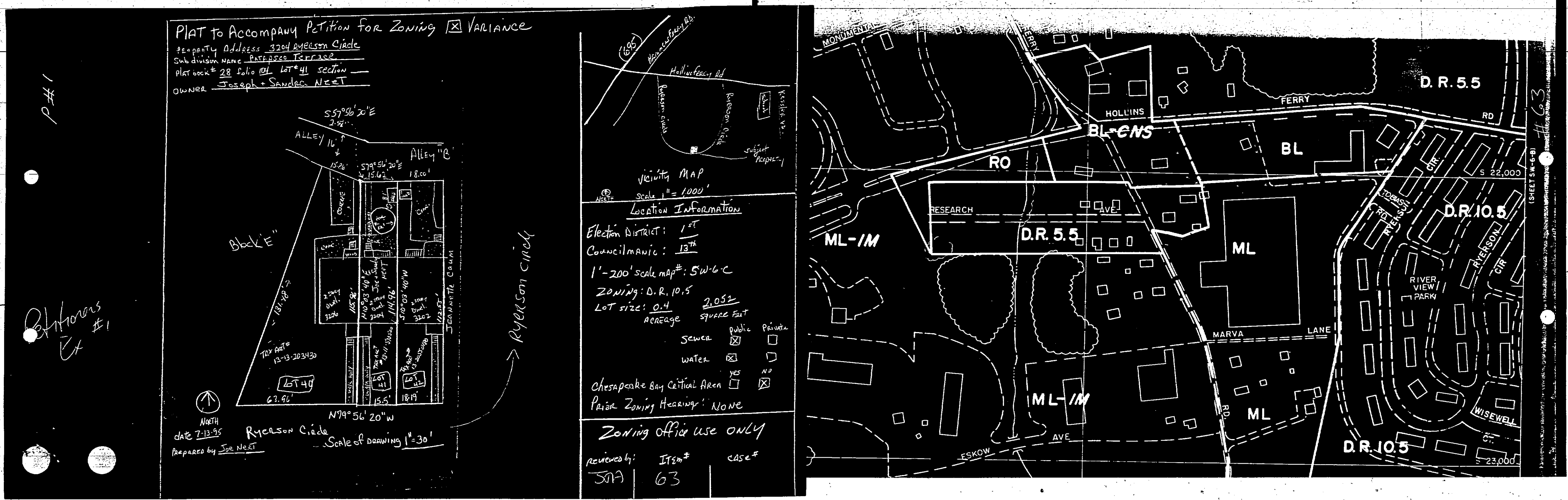
The Neets did not successfully obtain Ms. Caum's approval, or she did not register her disapproval in a timely fashion. Whatever the cause -- a mistake led to this breakdown in communication and feelings of ill will. I can understand the anger on both sides, and anger at yourselves for failing to say something.

2) Not obtaining neighbors approval.

While Mr. Neet is incorrect as to the law, action of neighbors is irrelevant as to what the law means, but relevant to how you experience life as neighbors and what your children see. The case could have been settled well before this with a little give or take.

Ms. Caum has as much right to enjoy her property as to you --

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Petitioner's #3-A → 3K Photos
 #4

Protestant's #1-A → 1-0 Photos

Joseph Neet
 96-63-14

